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Canada, Banking and Commerce
Standing Committee (Senate), 1951
1951

THE SENATE OF CANADA



PROCEEDINGS

OF THE

STANDING COMMITTEE ON
BANKING AND COMMERCE

To whom was referred the Bill (296 from the House of Commons),
intituled: "An Act to amend The Income Tax Act".

The Honourable SALTER A. HAYDEN, Chairman

THURSDAY, JUNE 21, 1951

TUESDAY, JUNE 26, 1951

WITNESSES:

The Honourable D. C. Abbott, P.C., Minister of Finance.

Mr. Charles Gavsie, Assistant Deputy Minister, Department of National
Revenue.

OTTAWA
EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1951

UNIVERSITY OF TORONTO

ORDER OF REFERENCE

Extract from the Minutes of Proceedings of the Senate for Thursday, June 21, 1951.

"Pursuant to the Order of the Day, The Honourable Senator Hayden moved that the Bill (296), intituled: 'An Act to amend The Income Tax Act', be now read a second time.

After debate, and—

The question being put on the said motion,
It was resolved in the affirmative.

The said Bill was then read the second time, and—

Referred to the Standing Committee on Banking and Commerce.

L. C. MOYER,
Clerk of the Senate."

THE STANDING COMMITTEE ON BANKING AND COMMERCE

The Honourable SALTER A. HAYDEN, Chairman

The Honourable Senators

Aseltine	Gershaw	McIntyre
Baird	Gouin	McKeen
Beaubien	Haig	McLean
Bouffard	Hardy	Nicol
Buchanan	Hawkins	Paterson
Burchill	Hayden	Pirie
Campbell	Horner	Pratt
Crerar	Howard	Quinn
Daigle	Howden	Raymond
David	Hugessen	Robertson
Davies	King	Roebuck
Dessureault	Kinley	Taylor
Emmerson	Lambert	Vaillancourt
Euler	MacLennan	Vien
Fallis	Marcotte	Wilson (49)
Farris	McDonald	
Fogo	McGuire	

MINUTES OF PROCEEDINGS

THURSDAY, June 21, 1951.

Pursuant to adjournment and notice the Standing Committee on Banking and Commerce met this day at 8 P.M.

Present: The Honourable Senators Hayden, *Chairman*, Aseltine, Beaubien, Bouffard, Buchanan, Crerar, Haig, Horner, Howden, Hugessen, Lambert, McDonald, Pratt, Quinn, Taylor and Wilson—16.

In attendance:

Mr. J. F. MacNeill, Law Clerk and Parliamentary Counsel.

The official reporters of the Senate.

Bill 296, "An Act to amend The Income Tax Act", was read and considered clause by clause.

Mr. Charles Gavsie, Assistant Deputy Minister, Taxation Division, Department of National Revenue, was heard in explanation of the Bill.

On motion of the Honourable Senator Aseltine, it was—Resolved to report recommending that the Committee be authorized to print 600 copies in English and 200 copies in French of its proceedings on the said Bill, and that Rule 100 be suspended in relation to said printing.

Further consideration of the Bill was postponed.

At 10.00 P.M. the Committee adjourned to the call of the Chairman.

Attest.

JAMES D. MacDONALD,
Clerk of the Committee.

TUESDAY, June 26, 1951.

Pursuant to adjournment and notice the Standing Committee on Banking and Commerce met this day at 11.30 A.M.

Present: The Honourable Senators Hayden, *Chairman*; Aseltine, Beaubien, Buchanan, Euler, Haig, Hawkins, Hugessen, King, McDonald, McGuire, McLean, Pratt and Taylor—14.

In attendance:

Mr. J. F. MacNeill, Law Clerk and Parliamentary Counsel.

The official reporters of the Senate.

Bill 296, "An Act to amend The Income Tax Act", was again considered.

The Honourable D. C. Abbott, P.C., Minister of Finance, was heard.

It was Resolved to report the Bill without any amendment.

At 12.30 P.M. the Committee adjourned to the call of the Chairman.

Attest.

JAMES D. MacDONALD,
Clerk of the Committee.

MINUTES OF EVIDENCE

THE SENATE

OTTAWA, Thursday, June 21, 1951.

The Standing Committee on Banking and Commerce, to which was referred Bill 296, an Act to amend the Income Tax Act, met this day at 8 p.m.

Hon. SALTER A. HAYDEN in the Chair.

The CHAIRMAN: Honourable senators, shall we go through this bill section by section?

Some Hon. SENATORS: Yes.

The CHAIRMAN: We have with us Mr. Gavsie from the Income Tax Division and Mr. Perry from the Finance Division.

Hon. Mr. ASELTINE: I noticed Mr. Gavsie in the Senate gallery this afternoon, and so he should be as well informed as we are about this bill.

Mr. GAVSIE: I learned a great deal this afternoon.

The CHAIRMAN: If it is agreeable we shall proceed clause by clause.

On section 1—Income from office or employment.

The CHAIRMAN: Possibly Mr. Gavsie could explain the general purport of this section and then honourable senators could ask questions about it.

Hon. Mr. HAIG: Yes. This is quite an important section.

Mr. GAVSIE: It is broken up into several parts. The first one clarifies the present wording of section 5 of the Act. Those of you who have an office consolidation of the Income Tax Act will notice on the top of page 6 the following:

“(b) All amounts received by him in the year as an allowance for personal or living expenses or as an allowance for any other purpose except

(i) travelling or other allowances expressly fixed in an Act of the Parliament of Canada.”

The first amendment clarifies the wording of this provision.

Clause (ii) of section 5(b) of the Act deals with travelling and separation allowances received under service regulations as a member of the naval, military, or air forces of Canada, and clause (iii) deals with representation or other special allowances received in respect of a period of absence from Canada, and so on. I think Senator Hayden gave the explanation of the second amendment this afternoon.

Hon. Mr. McDONALD: That is a new clause?

Mr. GAVSIE: That is an extension. Under the present law an agent-general of a province who receives a representation or other special allowance in respect of a period of business outside Canada is not obliged to bring that allowance into his income. A similar provision is being made in respect of an agent-general of a province while in Ottawa.

Hon. Mr. HAIG: Pass.

Mr. GAVSIE: Paragraph 3 deals with allowances to an employee, which allowances are computed by reference to time actually spent by the officer or employee while travelling away from the municipality or metropolitan area in

which he is employed. That would apply if I, as a civil servant, were sent on government business and were given an allowance per day. Supposing I were sent down to Washington and the government said I could have \$10 a day as my expense allowance. I would not be obliged to include that in computing my income. On the other hand, I could not charge my expenses. That \$10 would be the beginning and the end of it as far as my expenses are concerned. There was some reference this afternoon to a municipality or a metropolitan area. It would not be feasible to put in "city" because in a place like Ottawa you would not give a person a travelling allowance if he lived in Eastview and he was coming to Ottawa, and yet he would be going from one city to another. That is why we have a reference to metropolitan area. In other words, you are going away from home on a business trip for your employer.

Hon. Mr. ASELTIME: That is quite understandable.

Hon. Mr. HAIG: Yes.

Mr. GAVSIE: Then subsection 4 is consequential upon the changes we are going to come to in section 3 of the Bill. If you will notice in the middle of page 6 in the office consolidation we have the words "minus the deductions". We are going to add further deductions by section 3, and therefore we must amend the words commencing with "minus" on page 6 to provide for the deduction of the allowances that we are going to make by section 3 of this bill. That is a consequential amendment.

The CHAIRMAN: With that explanation shall section 1 carry?

Section 1 was agreed to.

On section 2—Certain reserves included in computing income.

Mr. GAVSIE: Section 2 of the bill provides for a bank bringing into income the excess of the reserve that has been allowed to it in preceding years. Under the Act, I think it is section 11, subsection 4, there is a provision that a bank may deduct from income amounts set up as reserves as certified by the Minister of Finance.

The CHAIRMAN: Is that not under the Bank Act?

Mr. GAVSIE: The Bank Act has a similar provision. This is just a copy of the Bank Act. This is the other side of it. If the reserve that has been built up over the years is in excess of the reasonable requirements, the Minister of Finance certifies that amount and the bank is consequently required to take that excess amount back into income.

Hon. Mr. HAYDEN: If in 1951 the Minister of Finance certifies that a certain reserve is a proper reserve for a bank to have against loans, and so on, then a reserve is set up out of the earnings or income of the year. Then in 1952 some of these loans they thought were likely to go bad in part, if they are paid, the minister makes a certificate which would have the effect of bringing back into income some of these reserves because they are necessary and they go back into income the following year.

Hon. Mr. PRATT: That has the same effect of writing off a bad debt one year and putting it into the next year?

Mr. GAVSIE: Yes, but under the Income Tax Act you set up a doubtful debt reserve at the beginning of the year and you bring back that reserve at the end of the year and you set up a brand new one at the beginning of the next year. There is that distinction, but the effect of the operation is the same.

Hon. Mr. HAIG: You ought to keep your books like lawyers and then you would have no bad debts.

Mr. GAVSIE: A lawyer is on a cash basis.

The CHAIRMAN: With that explanation shall section 2 carry?

Section 2 was agreed to.

The CHAIRMAN: Shall we proceed to section 3?

On section 3—Deductions allowed.

Hon. Mr. ASELTINE: That is an important one. What is the change in paragraph (ca) (i) (ii)?

Mr. GAVSIE: That is new. I know what Senator Aseltine is thinking about but I forget the name of the case.

Hon. Mr. ASELTINE: I brought it up once before.

Mr. GAVSIE: Yes. The purpose of this section is that where under section 7 a person receives a blended payment, and part of that payment is regarded to be of an income nature, that person, under section 7 of the Act, is required to bring that portion that is regarded as an income nature into his income. This amendment is the debtor side. The debtor may deduct the amount equivalent to the amount that the recipient was required to take into income.

Hon. Mr. ASELTINE: I thought we corrected that last year.

Mr. GAVSIE: No, not in the case of a blended payment. We did in the case of interest on the balance of price.

Hon. Mr. HAIG: What about payments in kind like where a man sells a piece of land on a bushel basis?

Mr. GAVSIE: It depends on the interpretation of the agreement. A part of that may be regarded as interest.

Hon. Mr. HAIG: I know that but let me tell you what I have in mind. Take a case where a man buys a piece of land on a payment of so much money. He does not pay anything for two or three years. It is quite common in our country that when things get a little bad you say to the man who comes in "Now, there are only three years' interest owing and I will throw it all off if you pay your principal payments for these years". We do not pay any income tax on that and it is clear and there is no question about it.

Mr. GAVSIE: That is forgiveness of the interest.

Hon. Mr. HAIG: Yes. That arose under the old agreement in 1935 where the government could adjust the amount.

Hon. Mr. ASELTINE: It was under the Farmers' Creditors Arrangement Act.

Hon. Mr. HAIG: Yes. Now, when you come to the bushel payment sometimes the same thing arises.

Hon. Mr. ASELTINE: It always arises. No matter whether a man paid for land on a bushel basis they never allowed me to get away without showing part of it as interest.

Mr. GAVSIE: This is a relieving provision to the debtor. This is complementary to section 7.

Hon. Mr. HAIG: Frequently, in order to get your money, you will throw off the interest.

Mr. GAVSIE: You are referring, Senator, to cases where the agreement calls for interest?

Hon. Mr. HAIG: Yes.

Mr. GAVSIE: This does not apply to such cases. This applies only where there is no provision for a payment of interest, but where there is a blended payment.

Hon. Mr. HAIG: In Alberta, Manitoba and Saskatchewan there are a good many payment-in-kind transactions. A man may owe you 20,000 bushels of wheat and delay the payment so long that finally you go to him and say you will settle for 15,000 bushels. I have been asked whether in a case like that it is interest that is being thrown off or part interest and part principal.

Mr. GAVSIE: I would not like to answer that question without looking into it. It would not be fair for me to give a snap answer.

The CHAIRMAN: If, when you make your adjustment, you are careful to specify that the reduction of 5,000 bushels in the payment represents forgiveness of the interest—

Hon. Mr. HAIG: We do that.

The CHAIRMAN: —then you are safe.

Hon. Mr. ASELTINE: What about those contracts which specify that there is no interest element in the payment at all, that it is all principal?

The CHAIRMAN: Of course, it does not matter what you say, if it is contrary to the law.

Mr. GAVSIE: If the taxpayer is dissatisfied with the position we take, then it becomes a matter for the courts.

Hon. Mr. ASELTINE: The department has a table for determining whether or not part of the payment is interest, depending upon the number of years that the agreement has to run.

Mr. GAVSIE: Section 7 of the Act says "Where a payment . . . can reasonably be regarded as being in part a payment of interest or other payment of an income nature and in part a payment of a capital nature . . ." So it is a matter for the courts.

The subsection was agreed to.

On subsection (2)—Employer's contribution to pension funds.

Mr. GAVSIE: That refers to the employer's contribution to pension funds. The Act now provides that the employer may deduct the amount paid within the year, and this amendment adds the words "or within 60 days from the end of the year". The change is proposed because it is difficult for some employers to make up their accounts promptly.

Hon. Mr. PRATT: The paragraph uses the term "an approved superannuation fund". A concern may be paying pensions to retired employees and yet have no approved superannuation fund within the meaning of this paragraph. Could such payments be deducted as an expense?

Mr. GAVSIE: No, because they would not be pension payments but gratuities of a kind. An approved pension plan is a plan that follows certain general principles. The department has issued a booklet setting forth those general principles. They provide for contributions by the employer alone, or by both the employer and employee, and the vesting of rights in the employee after a certain period, and for assurance that the plan is actuarially sound.

Hon. Mr. HAIG: Most of these pension schemes are submitted to the department for approval.

The CHAIRMAN: If an employer wishes to deduct contributions to a pension plan he must have the plan approved by the Director of Pensions.

Hon. Mr. PRATT: Then, as I take it, a payment made to a retired employee, in consideration of years of service, would be regarded as a gratuity and not exempt from taxation?

The CHAIRMAN: It might be in the category of a lump sum payment on retirement. If you pay an employee on his retirement \$x —

Mr. GAVSIE: That would be deductible in the year as an expense.

Hon. Mr. PRATT: What happens if payment is continued over several years?

Mr. GAVSIE: It would depend upon how long it was continued. It might be regarded as a salary postponed, as if in effect you were continuing to pay a salary that you have agreed to pay. But if you did that for the man's remaining years of life I doubt very much whether it would be regarded as an allowable expense, unless the money was paid under an approved pension plan.

Hon. Mr. HAIG: The employees of a certain department store are eligible for retirement on reaching a certain age and thereafter for ten years are paid a pension. When the employees retire they know that they will be receiving that money.

The CHAIRMAN: The company must have a pension plan.

Hon. Mr. HAIG: The employees do not pay anything towards it.

Hon. Mr. HUGESSEN: It is a non-contributory plan, then.

Hon. Mr. PRATT: It is a continuation of salary, really.

Mr. GAVSIE: If the payments were made for a relatively short period they might be regarded as salary paid for a short time after the employee ceased to work.

Hon. Mr. HAIG: It is part of the contract, really.

Mr. GAVSIE: Then the payment might be deductible.

Hon. Mr. HAIG: If I had served with that firm for twenty-five years I would, on reaching a certain age, be eligible to retire on a pension or allowance which would be paid to me for ten years.

Mr. GAVSIE: I am just guessing, Senator, but I think that the firm you have in mind now has a full pension plan.

Hon. Mr. HAIG: It did not originally.

Mr. GAVSIE: No. That was before pension plans became popular. You are thinking of senior executives?

Hon. Mr. HAIG: Yes.

Mr. GAVSIE: I think the company has changed their system in the last five or six years and now has a full pension plan.

Hon. Mr. PRATT: I wonder if some consideration should not be given to this matter. Many firms—I know some—have a policy of retaining retired employees on their payroll at maybe half or two-thirds of the former salary.

Mr. GAVSIE: If the man is rendering some service, say in an advisory capacity, or if he is doing any part-time job instead of a full day's work and is getting a part-time salary, the company can charge up that as an expense.

Hon. Mr. PRATT: In Newfoundland, for instance, there are many firms which have not the financial resources to enable them to establish an approved pension fund large enough to earn pensions for retired employees, but I know of numerous firms who keep retired employees on reduced salaries.

Mr. GAVSIE: The companies are entitled to their services.

Hon. Mr. PRATT: That may be so.

Mr. GAVSIE: Then you would have an employment arrangement, and there would be no difficulty about that.

Hon. Mr. PRATT: As long as they are entitled to get their services.

Mr. GAVSIE: If a man went off and got another full-time job, it might be said that you were paying for services that he was not rendering at that time.

Hon. Mr. PRATT: Thank you very much.

The CHAIRMAN: Subsection 3.

Hon. Mr. CRERAR: Assuming a man has been working in a firm for 25 years and then retires without a pension, and the firm, as a recognition of his long service, decides to give him a gift of \$5,000 cash, is that taxable?

Mr. GAVSIE: Yes; and Senator Hayden dealt with section 34 of the Act. We will come to that. But the effective rate on the supposed \$5,000 is arrived at by taking the rate of tax for the last year of employment (preceding the taxation year) and the two preceding years. In that way you would arrive at an average rate of tax, which is the actual tax you paid. That gives an average percentage over the three years, which would be applied to the \$5,000.

The CHAIRMAN: We will come to that. That is specifically set out in subsection 9.

Hon. Mr. CRERAR: I raise that question, because I think the situation is not quite just.

Hon. Mr. McDONALD: Perhaps Mr. Gavsie could explain section 3 so that some of us who are not income tax lawyers could understand it.

Hon. Mr. HUGESSEN: Subsection 3.

Mr. GAVSIE: On the question of travelling expenses?

Hon. Mr. McDONALD: Yes.

Mr. GAVSIE: This is a relieving section and applies to an officer or an employee who is ordinarily required to carry on the duties of his employment away from his employer's place of business or in different places.

Hon. Mr. BEAUBIEN: In different places?

Mr. GAVSIE: He has to move about, and under the contract of employment he has to pay his own travelling expenses, and does not receive an allowance for travelling. In those circumstances he may deduct from his salary his travelling expenses incurred in the course of his duties.

Hon. Mr. BEAUBIEN: That applies to hotel and everything?

Mr. GAVSIE: Hotel and train fare, but not entertainment.

Hon. Mr. BEAUBIEN: How does that affect senators coming to Ottawa?

The CHAIRMAN: I answered that question this afternoon.

Hon. Mr. BEAUBIEN: I thought Mr. Gavsie might give us some light on the subject.

The CHAIRMAN: You thought he might give a different answer.

Hon. Mr. HAIG: It couldn't be any worse than the one we got this afternoon.

Hon. Mr. BEAUBIEN: No; the answer we got this afternoon was most discouraging.

Mr. GAVSIE: I am afraid I shall have to agree with Senator Hayden.

Hon. Mr. BUCHANAN: Are fixed travelling expenses, that is on a yearly basis, permitted to industrial firms, or must their travellers submit itemized statements?

Mr. GAVSIE: If it is a reasonable amount, and if the person is employed in negotiating of contracts or the sale of goods he does not have to include them, but if he is employed for some other purpose he can only get an allowance computed by a reference to a specified time. In other words, he would get an allowance for the number of days that he was actually travelling away from the municipality or metropolitan area of his employer's place of business.

Hon. Mr. BUCHANAN: Was there not at one time a system whereby a straight annual allowance was permitted?

Mr. GAVSIE: Yes, I think that was up until 1943. All those per diem or periodical allowances were brought into income in Mr. Ilsley's time. That is now contained in section 5; we now have the exceptions which are being carved out of it.

The CHAIRMAN: You have dealt with the new subsection 9 of section 3. A new section 10 was created too.

Mr. GAVSIE: Subsection 10 carries out Budget resolution No. 3.

Hon. Mr. ISNOR: Subsection 3 (a) deals with employees. Does the same provision apply with respect to employers?

Mr. GAVSIE: Senator Isnor, an employer has always been allowed to deduct expenses incurred in travelling in the course of his business. There may be a question as to whether or not those were personal vacation expenses or were business expenses, but the policy has always been to allow the expenses of employers.

Hon. Mr. CRERAR: An employer would be allowed his living expenses, as well as his travelling expenses.

Mr. GAVSIE: Yes, while away on business.

Hon. Mr. CRERAR: If you go away on business to, for instance, Calgary and spend a week there, do you pay your hotel expenses?

Mr. GAVSIE: We file an expense account.

Hon. Mr. CRERAR: And you do not pay taxes on that amount?

Mr. GAVSIE: That is true.

The CHAIRMAN: That is an occasion when you are away from your place of employment. Senators might be able to claim expenses if their employment was in Ottawa and parliament met in Toronto.

Hon. Mr. McDONALD: Or in Halifax.

Hon. Mr. BEAUBIEN: Or in Winnipeg.

Hon. Mr. McDONALD: Could we have an explanation on the last part of that section?

Mr. GAVSIE: This, again, deals with an employee. An employer was always allowed to deduct these expenses; that is to say, a lawyer who ran his own office was allowed to deduct his bar fees. By this provision a lawyer who is on salary, if he is engaged as a lawyer, may deduct his bar fees. This applies to other professional men. I am referring to paragraph (a) of subsection 10. Paragraph (b) of that subsection has to do with a person who is required by his terms of employment to maintain an office or supply an assistant or a substitute.

Hon. Mr. HAIG: Carried.

Mr. GAVSIE: Paragraph (c) has to do with the cost of consumable supplies that are used directly in the performance of an employee's duties. I understand that in Nova Scotia the miners are required to supply their own dynamite and caps. They would be entitled to deduct the cost of those supplies which are consumed directly in the performance of their duties. Paragraph (d) has to do with union dues, including associations of public servants.

The CHAIRMAN: Subsection 11.

Hon. Mr. HAIG: Carried.

Mr. GAVSIE: Subsection 11 provides that a person who is entitled to deduct travelling expenses, uses an automobile for the purpose of travelling, may get the capital cost allowance or a part of it based upon the use of the automobile in the performance of his duties. In other words, he gets a depreciation allowance on his automobile, based upon the percentage of time that he is using it in the business of his employer.

The CHAIRMAN: Subsection 12.

Mr. GAVSIE: Subsection 12 would attempt to carve out what union dues are allowable, namely, the amounts contributed for the operating expenses of the union as distinguished from amounts contributed for an insurance, or burial plan or something of that nature, which are not allowable.

The CHAIRMAN: Subsection 13.

Mr. GAVSIE: Subsections 13 and 14 should be considered together. The practice for years in the department was to allow one-half of the investment counsel fees that were paid. One taxpayer wanted to get the whole amount, and the department disallowed it. The matter went before the Income Tax Appeal Board, and it held that it was a capital expense and not allowable.

The purpose of this amendment is to give legal effect to the practice and allow a person to deduct one-half of his investment counsel fees.

Hon. Mr. HUGESSEN: For how many years has that been the practice?

Mr. GAVSIE: It was before 1949, and that is the reason for making this retroactive.

Hon. Mr. HUGESSEN: I was a little doubtful as to whether from the point of view of policy it should be allowed at all, but seeing it has been allowed for all this time, you are simply putting into statutory force a practice which has grown up over many years.

Mr. GAVSIE: That is right.

The CHAIRMAN: It is a good relieving section, so we should be all for it.

Hon. Mr. HUGESSEN: I wondered if that was being done for the benefit of the investment counsel.

Subsection 14 was agreed to.

The CHAIRMAN: We have dealt with all the provisions of section 3. Shall the entire section pass?

Section 3 was agreed to.

Hon. Mr. McDONALD: That is applicable for all the year 1951?

The CHAIRMAN: That goes back to 1949.

Mr. GAVSIE: The investment counsel provision goes back to 1949. The other items relate to 1951.

On section 4—If chief source of income not farming, etc.

Hon. Mr. BEAUBIEN: I would like to ask a question, to which I did not get a very good answer this afternoon, although I am not blaming the Chairman. Supposing a farmer, having another occupation, rents his land to somebody else on a crop-share basis, and he happens to have no crop at all—

Mr. GAVSIE: Who?

Hon. Mr. BEAUBIEN: No crop on the land at all, no revenue. Should he not be able to deduct the taxes on that land from his other income?

Mr. GAVSIE: What you are getting at now, Senator, is income from property? You are the landlord?

Hon. Mr. BEAUBIEN: I am the landlord.

Mr. GAVSIE: You are getting income from property? You are not getting income from a farm. The man who leased the farm from you is a farmer and he is getting income from farming, but I do not think he would be a part-time farmer.

Hon. Mr. ASELTIME: Your income is investment income.

Hon. Mr. BEAUBIEN: All right. I have money invested in my farm, and I rent it to a neighbour, because I am not able to farm it.

Mr. GAVSIE: You would be able to charge that loss against your other investment income.

The CHAIRMAN: You would not be able to charge it against your income from your chief occupation.

Hon. Mr. HAIG: If you had got income from bonds you would be able to charge against the bond interest the money that you expended in taxes on the land on which you had no crop; you would have to pay tax on the bond interest less the amount of tax you paid out. Any other income except your salary.

Hon. Mr. BEAUBIEN: But they have never allowed it.

The CHAIRMAN: They are wrong if they have not.

Mr. GAVSIE: I thought you said, Senator, you did not have any other investment income.

Hon. Mr. BEAUBIEN: No. You can deduct it from other investment income?

The CHAIRMAN: That is right.

Hon. Mr. HAIG: The only problem is, which is your primary occupation?

Mr. GAVSIE: That is a difficult matter.

Hon. Mr. HAIG: I am a lawyer and a senator. Which is my primary occupation?

Mr. GAVSIE: I am afraid we might combine them, Senator.

Hon. Mr. HAIG: That is the trouble.

Hon. Mr. McDONALD: In the case of some people down in Nova Scotia by the sea, part-time farmers and part-time fishermen, how would this work?

Mr. GAVSIE: I think in those cases both would be regarded as their chief source of income, a combination of fishing and farming. They would not be affected by this section.

Hon. Mr. HUGESSEN: Why is this section made applicable in 1949?

Mr. GAVSIE: The same reason. For years this was a matter of practice.

Hon. Mr. HUGESSEN: I see. You are just putting it in statutory form?

Mr. GAVSIE: That is right. There was no limitation of \$5,000. There is now.

Hon. Mr. HUGESSEN: But some question was raised?

Mr. GAVSIE: Under the new act we felt that the law did not permit it, so we proceeded to disallow it; and as a matter of policy the government decided to put it in.

Section 4 was agreed to.

On section 5—When ss. (1) not applicable.

Mr. GAVSIE: In order to understand section 5 I think you will have to look at section 19 of the act. It deals with a case where "a corporation resident in Canada has loaned money to a non-resident person and the loan has remained outstanding for one year or longer without interest at a reasonable rate having been included in computing the lender's income, etc." We compute 5 per cent interest as having been received by the corporation resident in Canada. This is a prevention of evasion. You have legitimate cases where a parent company in Canada loans money to a subsidiary outside Canada for purely business purposes, and by this new subsection it is said that if the loan was made to a subsidiary controlled corporation and it is established that the money that was loaned was used in the subsidiary corporation's business for the purpose of gaining or producing income, the operative subsection does not apply, and we do not deem them to have received interest they did not receive.

Hon. Mr. HUGESSEN: The reason being that ultimately the parent corporation will get it back in dividends from the subsidiary?

Mr. GAVSIE: That is right. You could have a very simple situation where a man who owned a Canadian corporation could set up a subsidiary outside Canada and have the Canadian company make an indefinite loan to the subsidiary outside Canada without any interest, and then he could get the surplus through the foreign subsidiary and therefore evade tax on that surplus. This is a relieving section.

Section 5 was agreed to.

On section 6—Medical expenses. Application.

The CHAIRMAN: This is also a relieving section.

Hon. Mr. HAIG: You explained it too fully this afternoon!

Hon. Mr. BUCHANAN: I want to ask a question which does not relate to what is in this bill. The practice of a good many people in Western Canada away from group medical facilities is to go to Mayo Brothers in Rochester. They sometimes take a nurse with them, having the expense travelling there

and back and of course the fees at the hospital, but for the nurse accompanying the patient from, say, a point in Saskatchewan to Rochester, they are not allowed a deduction.

Mr. GAVSIE: That is right.

Hon. Mr. BUCHANAN: Why is that?

Mr. GAVSIE: Well, the law does not provide for it.

Hon. Mr. BUCHANAN: Is not that part of the medical services?

Mr. GAVSIE: No, that is a travelling amount. I suppose—here I am guessing, because this is taxing policy—one of the reasons the law doesn't provide for it—I might feel that to go down to Florida would be a very good thing for my health, and I presume that it would be very difficult to find a subjective test to apply. The answer from the administrative point of view is that the law does not cover that. That has been put up to the Minister of Finance from time to time and he has not seen fit to amend the law to accommodate it. That is my only answer from an administrative point of view.

The section was agreed to.

On section 7—Dividends received by a corporation.

Mr. GAVSIE: Paragraph (d) provides that where a Canadian corporation receives dividends from a non-resident corporation in which it owns more than 25 per cent of the shares, these are not taxable. It formerly had to be a subsidiary-controlled corporation; that is, a corporation, 50 per cent of the shares of which were owned by the Canadian parent. Those dividends were not taxable. They passed tax free and were not included for taxation in the hands of the parent corporation. They would form part of the surplus of the parent, but they would not be a part of the taxable income of the parent in the year of receipt. The purpose of this amendment is to widen that provision, and if the Canadian recipient corporation owns 25 per cent of the shares of the foreign company, the dividends would pass to the Canadian parent tax free.

The CHAIRMAN: More than 25 per cent of the shares?

Mr. GAVSIE: Yes.

Hon. Mr. HAIG: Please do not explain the rest because Senator Hayden explained it this afternoon.

Mr. GAVSIE: I cannot add anything more to that. Our experts are still working at it and they have no easy answer. The Minister of Finance has said that when they do get the answer we will make it retroactive to the same date.

Hon. Mr. HUGESSEN: That is (1) (f)?

Mr. GAVSIE: Yes.

The CHAIRMAN: Shall section 7 carry?

The section was agreed to.

The CHAIRMAN: Then can we say with respect to the explanation which was given to (1) (f) that you are not prepared to say there was any heresy expressed in my attempting to deal with that this afternoon?

Mr. GAVSIE: I could not have done any better, if as well.

Hon. Mr. HAIG: That is why I suggested we go on.

On section 8—Earned income.

Mr. GAVSIE: You have the 4 per cent tax on investment income and for the purposes of defining earned income we have added death benefits and profit sharing plan allocations to include those in earned income, and have therefore taken out any possibility of their being subject to the 4 per cent surtax on investment income.

The CHAIRMAN: That is relieving.

Hon. Mr. HAIG: Pass.

The CHAIRMAN: The rest of it is dealing with the 20 per cent surtax on individuals. Are there any questions on that?

Hon. Mr. HAIG: Pass. Fortunately we know too much about it.

The CHAIRMAN: It is something you will feel more as the time goes along. The section was agreed to.

On section 9—Part payment.

Mr. GAVSIE: Section 33A which is to be added to the Act covers the case of a savings plan. If I could just mention some names without having them put on the record, it would be a—savings plan where you put in a certain amount each month or quarter of each year, and the company agrees at the end of fifteen years, or whatever particular date it is, to pay you "X dollars". I think the senators are all familiar with that type of plan. Let us say it is a \$1,500 contract. If you are to receive that \$1,500 in 1951 the interest on that \$1,500 payment would be taxable in the year in which you receive it, namely, 1951. The purpose of this section is to give the taxpayer the option. In place of adding this to his other income for the year, he may pay a tax on that interest portion of the \$1,500 at an effective rate, the effective rate being his average rate on his income for the year and the two preceding years.

Hon. Mr. HUGESSEN: Let us take an actual example. Supposing a man was to receive that \$1,500 in 1951?

Mr. GAVSIE: Let us assume that \$700 of it is interest. It is really not quite \$700 but it is close to it.

Hon. Mr. HUGESSEN: Well, then, instead of having to add that \$700 to his income for 1951, he would take the average rate of tax on his other income for 1949, 1950 and 1951, say, it reached 36 per cent, and he would then pay 36 per cent on that \$700. Is that right?

Mr. GAVSIE: Yes.

Hon. Mr. HUGESSEN: May I ask another question on that point? Would that apply where somebody was receiving anything representing part principal and part interest, say, on a compromise?

Mr. GAVSIE: No, Senator, I do not think it would, because the original obligation would have provided for the payment of interest. This only applies to where the original application provides for a blended payment.

Hon. Mr. HUGESSEN: Suppose the ultimate settlement provided for a blended payment?

Mr. GAVSIE: I do not think it meets the conditions. This section was not designed for that purpose.

The CHAIRMAN: Excepting this: Supposing bondholders get together and they make a compromise. The interest and principal have been in arrears and the compromise is the one that gives a period of, say, three years to the company to get on its feet, and at the end of the three years the company must pay "X" dollars in the nature of one payment. There is no provision of interest or principal and in so many years the entire obligation is liquidated. Now, that meets the condition, does it not?

Mr. GAVSIE: No, the security that you receive in satisfaction of the debt would be income in the year in which that security was received. I am afraid that would fall under section 24 of the Act.

Hon. Mr. McDONALD: When you used the word "blended" you mean interest and principal?

Mr. GAVSIE: There is no segregation. The contract provides for the payment of "X" dollars. The reason I used the word blended is that it is covered in section 7 of the Act.

Hon. Mr. McDONALD: But that is what it means?

Mr. GAVSIE: Yes.

The CHAIRMAN: There is no use arguing on that point of section 24 because it is not before us, but I reserve the right to hold an opinion which may differ from yours, Mr. Gavsie.

Mr. GAVSIE: Oh, anything I say here is just an opinion.

Hon. Mr. CRERAR: Take the individual who retires after twenty-five years service without any pension plan or any arrangement that he get anything when he retires. But let us say his employer says to him "Well, you have done very good work here for twenty-five years and in recognition of that work I am going to give you \$5,000." Would you say that that comes into his income for that year?

Mr. GAVSIE: Yes, I think that would come under section 6 of the Act.

Hon. Mr. CRERAR: Well, that is where I raised this point before.

Mr. GAVSIE: No, I am referring to section 6 of the Act in this blue book.

Hon. Mr. CRERAR: The point I want to get clear is whether he would pay tax on that.

Mr. GAVSIE: That is my opinion. Under this section we are now looking at he has an option. He has an option of spreading out the payments over a certain period of years, but he still has to pay taxes.

The CHAIRMAN: That is right. It is income.

Hon. Mr. HAIG: Pass.

Hon. Mr. HUGESSEN: Is not Senator Crerar's question answered by section 34?

The CHAIRMAN: That is right.

Mr. GAVSIE: It is brought into income, Senator, under section 6 of the Act, which says "there shall be included in computing the income of a taxpayer for a taxation year", among other things, retiring allowances. And "retiring allowance" is defined in section 127 (1) (a) as meaning "an amount received upon or after retirement from an office or employment in recognition of long service or in respect of loss of office or employment (other than a superannuation or pension benefit), whether the recipient is the officer or employee or a dependent, relation or legal representative".

Hon. Mr. HUGESSEN: But in section 34 (1) and (2) don't you take that case out?

Mr. GAVSIE: An option is given to him by the law.

Hon. Mr. HUGESSEN: But, to take Senator Crerar's hypothetical case, suppose a man is given in a certain year \$5,000 as a retiring allowance in recognition of long service, he will now be able to take advantage of the new section 34?

Mr. GAVSIE: Yes. I understood Senator Crerar's question to be whether the man would be taxable on the amount at all.

Hon. Mr. HUGESSEN: I understood the question was whether he would be taxable for the whole thing in one year.

Hon. Mr. CRERAR: My point is that at some time he will have to pay a tax on it.

Hon. Mr. LAMBERT: Does the company have to pay a tax on an amount paid out like that?

Mr. GAVSIE: The company would be able to deduct that.

Hon. Mr. CRERAR: What I am concerned about is the man who has not the benefit of any superannuation and who, because of long and faithful service is given a lump sum in one year, say \$5,000.

The CHAIRMAN: Even a man who receives payments from a pension plan has to pay tax on them, if his total income comes within the taxable limit.

Hon. Mr. CRERAR: I take it that the purpose of the tax is simply to obtain revenue.

Mr. GAVSIE: I presume that in such a case the payment would be a sort of postponed salary. As to your question, Senator, the philosophy of taxation is of course a little beyond my field.

Hon. Mr. CRERAR: The payment would not be a postponed salary.

Mr. GAVSIE: A reward for long service.

Hon. Mr. McDONALD: For faithful service.

Section 9 was agreed to.

On section 10—Dividend deduction.

Mr. GAVSIE: The purpose of this amendment is to add the words "from such a corporation".

The section was agreed to.

On section 11—Rate.

The CHAIRMAN: This is the related companies section. Is any further explanation of this required?

Hon. Mr. ISNOR: There is one point that was not clear to me when the bill was discussed in the Senate this afternoon. Has the taxpayer the option of selecting which company will pay the larger amount?

The CHAIRMAN: There are two taxpayers, and if they do not decide among themselves the minister will designate one of them.

Hon. Mr. ISNOR: I have in mind cases where the companies are controlled by one individual.

Mr. GAVSIE: There would be no problem there. The individual himself could choose which company would get the benefit.

The CHAIRMAN: That is provided right in the Act.

The section was agreed to.

On section 12—Defence surtax.

Hon. Mr. HAIG: Section 12 is where you fell down, Mr. Gavsie.

The CHAIRMAN: I do not think the whole responsibility can be placed on Mr. Gavsie for the failure to provide a definition with respect to the 5 per cent on capital employed, but the net result is that so far nothing has been produced.

Hon. Mr. BOUFFARD: Mr. Gavsie, as to this section—

Mr. GAVSIE: This section, Senator, has to do with a matter of taxation policy, and I do not think I should speak to it.

The CHAIRMAN: I suggest that we let this section stand and ask the minister to speak to us about it.

Hon. Mr. HAIG: Very well.

The section stands.

On section 13—Averaging for farmers and fishermen.

Mr. GAVSIE: The words "on or" are inserted before the word "before", in the middle of the paragraph. The present section in the Act requires the farmer or the fisherman to file his election before the day on which he is

required to file his income return, but under this amendment he can file the election with the return.

The section was agreed to.

On section 14—Rules of assessment.

Mr. GAVSIE: If a taxpayer has a loss he is permitted under this new subsection to file an amended return and have his preceding year's return reassessed.

The CHAIRMAN: This subsection says if you have a profit in 1951, for instance, and a loss in 1952, and if within the year 1952 you file an amended return in relation to 1951, so as to carry back the loss into the previous year, you have a statutory right to reassessment for the year 1951. I was concerned about the case where a taxpayer simply files a return for 1952, showing a loss, and does not ask to have his 1951 return amended, but Mr. Gavsie assures me that the taxpayer's right to a reassessment for 1951 would still exist.

Mr. GAVSIE: Yes. This subsection was put in at the specific request of the chartered accountants and lawyers, who thought that the law should give the taxpayer a statutory right to have his preceding year's return reassessed.

Hon. Mr. BOUFFARD: Is there any time limit within which the amended return must be filed?

Mr. GAVSIE: Yes, within a year from the day when he was required to file the return for the year in question.

Hon. Mr. HUGESSEN: This has nothing to do with refund of overpaid taxes?

Mr. GAVSIE: No. It simply gives the taxpayer a statutory right to have his preceding year's return reassessed.

Hon. Mr. BOUFFARD: Suppose that the last date on which a company may file its return for 1951 is the first of July. If in 1952 the company has a loss it must put in its claim before the first of July 1953?

Mr. GAVSIE: It does not have to do so, but if it wishes to have its 1951 return reassessed it has a statutory right to request that that be done.

The section was agreed to.

On section 15—Withholding.

The CHAIRMAN: The amendment here is the addition of paragraph (d) to section 44 of the Act.

Hon. Mr. HUGESSEN: This has to do with withholding of tax from salaries?

Mr. GAVSIE: Yes.

The section was agreed to.

On section 16—Special case.

The CHAIRMAN: This deals with co-operatives.

Mr. GAVSIE: Yes, this deals with co-operatives and their instalment payments. The amendment substitutes \$10,000 of income for \$1,000 of tax. That is to say, the limitation will now be based on the amount of income rather than, as heretofore, on the amount of tax liability. The reason is this. When the limitation was based on the amount of tax liability the rate was 10 per cent, and \$1,000 of tax was the equivalent of \$10,000 of income. The rate now being 15 per cent, there is this substitution of not more than \$10,000 of income.

The section was agreed to.

On section 17—Tax on income from property transferred between husband and wife or to minors.

Mr. GAVSIE: This is the section you explained, Mr. Chairman.

The CHAIRMAN: Are there any further questions?

Hon. Mr. ASELTINE: Not unless there is some doubt as to whether both husband and wife are taxable.

The WITNESS: One is taxed, but they are jointly and severally liable.

The section was agreed to.

On section 18—Special case.

The CHAIRMAN: This ties in with section 16.

The section was agreed to.

On section 19—Refunds.

Mr. GAVSIE: The amendment here is the addition of the following words at the beginning of the subsection:

If the return of a taxpayer's income for a taxation year has been made within two years from the end of the year,

Then it continues with the words in the present subsection: "the minister may", and so on. That is tied in with the provision for application for refunds as now provided for in section 112 (7) of the Act, which requires an application for refund to be made within two years. The income return must be filed within two years after the end of the taxation year. As time goes on the employer's slips are put away and it is often difficult to find them. We have put on a very active campaign advising people who think they are entitled to a refund to file their returns.

The CHAIRMAN: You have in mind cases where too much tax has been withheld and the employees are entitled to refunds?

Mr. GAVSIE: Yes.

Hon. Mr. HUGESSEN: Now it is proposed to fix the time within which a claim may be filed at two years?

Mr. GAVSIE: Yes. The taxpayer will get a refund automatically if his return claiming a refund is verified by the assessment.

Hon. Mr. ASELTINE: Will he get that without applying for it?

Mr. GAVSIE: Yes. If within a year something comes up which shows that he overpaid he can come forward within the additional year and say he has made a mistake, or something to that effect, and ask for a refund on that ground. So he has an additional year within which he may do that over the two years within which he is required to file his return.

The CHAIRMAN: The man would be cut down to twelve months from the period in which he makes application for a refund.

Mr. GAVSIE: That is correct.

The CHAIRMAN: He would have only twelve months.

Hon. Mr. ASELTINE: For example, if after computing my income tax I find that I have overpaid the department \$1,000. Within a month or so I receive my assessment, and it shows the overpayment. Do I have to make application for a refund?

Mr. GAVSIE: No. We have treated your return as an application. Mechanically the way the thing works, Senator, is this: There is attached to the form we use a cheque form. It is a machine operation; you get the first copy of this form T.67A; there is a cheque form attached to the other part and it goes down the line and is sent out as part of the operation.

Hon. Mr. ASELTINE: But what happens if I say in a letter accompanying my return that I wish to have the \$1,000 applied on my next year's liability?

Mr. GAVSIE: In some cases we will follow your instructions, but sometimes we are so mechanical that we do not follow them.

Hon. Mr. ASELTINE: I find the department keeps the refund for about eight months and then sends me a cheque; then there is a liability on my part to pay interest.

Mr. GAVSIE: I do not think you will find that happening very often now. You realize that it is rather difficult to change the system; it takes a little while. I think we have caught up with that problem.

Hon. Mr. HUGESSEN: You say that the filing of a return operates as an application, if it shows an overpayment?

Mr. GAVSIE: Yes, we treat it as an application.

The CHAIRMAN: The law does not say so, but it is treated in that manner.

Mr. GAVSIE: If you will look at the T.67A notice of assessment, you will see that it says if the notice shows a refund it is not necessary for you to make any further application, that the refund will be sent to you shortly, or words to that effect.

Hon. Mr. HAIG: Carried.

Hon. Mr. ASELTINE: There is something new in section 3?

Mr. GAVSIE: Under the present law there is provision for payment of interest at the rate of 2 per cent on an overpayment not exceeding \$5,000, and half of 1 per cent on amounts in excess of \$5,000. The purpose of this amendment is to make the 2 per cent applicable without limitation.

Hon. Mr. HUGESSEN: Do you anticipate, Mr. Gavsie, as the gentleman who explained the bill this afternoon did, that there will be a vast overpayment immediately the bill passes, in order to get the 2 per cent?

Mr. GAVSIE: Not knowing much about financing, Senator, I do not know whether the market is such that people will turn their money over for the purpose of getting 2 per cent from the government. I would not like to express my opinion on that.

Hon. Mr. HUGESSEN: In the United States, the department at one time paid 5 per cent.

Mr. GAVSIE: Yes, and they had to cut down their interest rate because they found that as a matter of practice people were deliberately overpaying their taxes in order to benefit by the higher rate of return than they could get on government bonds.

The CHAIRMAN: It is a pretty safe place to have your money too.

Shall section 19 carry?

Section 19 was agreed to.

On section 20—Non-profit corporation.

The CHAIRMAN: That has to do with charitable trusts and foundations, which I explained this afternoon. Is there any additional information that any member of the committee requires?

Hon. Mr. BOUFFARD: I am sorry that I was not present this afternoon to hear your explanation. I understand that this refers to corporations for charitable purposes. Does the section also apply to educational corporations?

Mr. GAVSIE: It does not apply to an organization that devotes all its resources to charitable activities, Senator; they are under (ea). That is a charitable organization itself. This section refers to a corporation set up for charitable purposes, but does not carry on charitable activities; it contributes money to charitable organizations.

Hon. Mr. ISNOR: Would the support of a baseball club be included in that section?

Mr. GAVSIE: No.

The CHAIRMAN: I suppose a corporation under (eb) might contribute to a charitable organization under (ea)?

Mr. GAVSIE: Yes. Here it provides that 90 per cent of the income is to be paid out to a charitable organization.

Hon. Mr. McDONALD: Does this cover educational grants?

Mr. GAVSIE: "Charitable" includes educational. There are four headings: Religious, Relief of Poverty, Education, and the Good of the Community as a Whole. That last category is rather roughly stated, but that is the effect of it. Charity comes under those four headings.

The CHAIRMAN: It is the old definition of "charity", under the Elizabethan statutes.

Mr. GAVSIE: Yes; I have forgotten the name of the Old English case.

Hon. Mr. BOUFFARD: Paragraph (eb) reads: "A corporation that was constituted exclusively for charitable purposes, no part of whose income was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder. . ."

Mr. GAVSIE: The corporation's income.

Hon. Mr. BOUFFARD: There are a great many educational corporations in the province of Quebec, in which salaries are paid for the education of the pupils.

Mr. GAVSIE: Yes; we provide for the payment of salaries.

Hon. Mr. BOUFFARD: You provide for that.

Mr. GAVSIE: Yes; it really applies to profits. Salaries apply to remuneration for services. It is the surplus which is not to be available to any member, etc.

The CHAIRMAN: Subparagraph (ii) at the top of page 14 makes an exception.

Hon. Mr. CRERAR: I should like to ask a question about the Winnipeg Foundation.

Mr. GAVSIE: Senator, that is one of the reasons for subsection 4, at the top of page 15, providing a reserve for one year. I understand that the Foundation requested that that provision be made.

Hon. Mr. CRERAR: The point is that this is wholly a charitable foundation.

Mr. GAVSIE: That is true.

Hon. Mr. CRERAR: I do not know what changes this bill would make but under the existing law it was obliged to pay out 90 per cent of its income each year, otherwise it was taxable.

Mr. GAVSIE: That is right.

Hon. Mr. CRERAR: The Directors or the Governors of the Foundation found themselves in a period of buoyant employment, with little need for charitable donations, and they wished to pay out less than 90 per cent. Do the provisions in this section take care of that situation?

Mr. GAVSIE: I am informed—this information is second-hand—that the provision for a one-year reserve would meet their problem; and you will find at the top of page 15, subsection 4 provides that these organizations may have a one-year reserve.

Hon. Mr. CRERAR: There is also the Dafoe Foundation.

Mr. GAVSIE: Yes; I understand from Dr. Eaton that he was in communication with both organizations, and that this measure will help or solve their problem.

Section 20 was agreed to.

On section 21—Armed forces.

The CHAIRMAN: We come now to the two sections which I referred to as "The Armed Forces Code" under section 21 of the bill.

Hon. Mr. ASELTINE: I think you explained that fully this afternoon.

The CHAIRMAN: Are there any further questions to be asked on these sections?

Hon. Mr. McDONALD: These are both relieving sections.

Mr. GAVSIE: They are all for relief and to provide a more effective way—

Hon. Mr. McDONALD: They were quite fully explained this afternoon.

The CHAIRMAN: You have nothing to add, Mr. Gavsie?

Mr. GAVSIE: No.

Section 21 was agreed to.

On section 22—Foreign business corporations.

Mr. GAVSIE: This section deals with foreign business corporations, that is, Canadian resident corporations that have all their business outside Canada. They are required to file a return within 120 days; under the present law if such a company files its return on the 121st day it loses the benefits as a foreign business corporation. The purpose of paragraph (b) is to give an additional 250 days but to impose a penalty of \$10 a day for each day over 120 days.

Hon. Mr. HAIG: Pass.

Mr. GAVSIE: Subsection 2 is a relieving section, and has to do with a foreign business corporation that has all its activities outside of Canada, with the exception that it may have operations of a mining nature, which is a relatively small part of its business. The purpose of this section is to say that that function in itself does not disqualify the corporation from being a foreign business corporation.

Hon. Mr. PRATT: That means that the company has 120 days from the end of its fiscal year?

Mr. GAVSIE: That is right.

Section 22 was agreed to.

On section 23—Annuities. Application.

Mr. GAVSIE: This amendment is to clarify the provision relating to the exemption of certain government and like annuities. It provides that the annuity is deemed to have been enlarged if you increase the amount of the payments or increase the number of the payments, and this is applicable for 1951 on.

Hon. Mr. HUGESSEN: Just for clarification?

Mr. GAVSIE: That is right.

The CHAIRMAN: Is it for clarification? If you had an annuity that was in existence on June 25, 1940, that annuity would be exempt, would it not, under the law?

Mr. GAVSIE: That is right. You cannot enlarge that.

The CHAIRMAN: Then, if you enlarged that afterwards by increasing your payments, trying to give the same character of an exemption to carry it forward, you cannot, under the act?

Mr. GAVSIE: That is right.

The CHAIRMAN: So in a sense it is to make it clear?

Mr. GAVSIE: That was always the intention. There has been some doubt about it.

The CHAIRMAN: The purpose is to make it clear that if you do that you have to pay some tax.

Mr. GAVSIE: Yes.

Section 23 was agreed to.

On section 24—Undistributed income on hand.

The CHAIRMAN: This is quite a section.

Hon. Mr. HAIG: Catching up with the smart boys.

The CHAIRMAN: No. Section 24 is—

Mr. GAVSIE: Rules for interpretation of and calculating undistributed income.

Hon. Mr. HAIG: Yes. Well, that is "catching up with the smart boys".

The CHAIRMAN: No. I think what it is is clarifying the rules that they wrote into the formula originally; and they found that they were capable of too broad a meaning.

Hon. Mr. HAIG: That is what I say. Again, I say, "catching up with the smart boys."

The CHAIRMAN: "Intelligent boys."

Hon. Mr. HAIG: No, "smart boys." I use the term advisedly.

Mr. GAVSIE: One of your Winnipeg accountants pointed out to us that we had to have the provision at the top of page 19, starting with the dividend that was paid exclusively out of a surplus on hand before January 1, 1917. We thought that had all been cleared, but he had an actual case of a company in Winnipeg that was affected by this, and we had to put that in to make it clear.

Hon. Mr. ASELTYNE: They do things like that in Winnipeg!

The CHAIRMAN: They were slow in declaring the dividend. That was in 1917.

Hon. Mr. HAIG: That was part of the \$65,000,000 we got from Ontario and Quebec!

The CHAIRMAN: That is really what makes you flush. This is quite a long section. This first part of it deals with subparagraph (ii) of subsection (1) of section 73A, and expands it.

Hon. Mr. HUGESSEN: It expands the definition of expenses.

The CHAIRMAN: Yes, and then it expands the dividends that are to be deducted. That will be found at the top of page 19. Then you get into subsection (3).

Mr. GAVSIE: Number 3 is similar to 27 (1F) that we referred to before. That is, it uses a rule of notional winding-up in the case of the determination of the shareholders' portion of the corporation's undistributed income, and the remarks we made about working on the section and trying to devise a formula are clearly applicable to subsection (3).

The CHAIRMAN: This relates to the Minister's undertaking in the Commons in respect to 27 (1F). You cannot change this without changing this particular section.

Mr. GAVSIE: That is right.

The CHAIRMAN: Because they are sort of correlated.

Mr. GAVSIE: Yes.

Hon. Mr. HUGESSEN: This is a terrific accounting problem. When you are going to repay some capital to the shareholders of a company and you have to determine whether it has undistributed income on hand, making that distribution taxable, you have got to go back to 1917 and beyond and apply all these subsections and new subsections.

Mr. GAVSIE: That is correct.

Hon. Mr. HUGESSEN: It makes a terrific problem for the accountants.

Mr. GAVSIE: These rules do not come into application in each case, but you must have them, because they are needed in some cases. That is why you must have what appears to be very difficult language. There are special

cases. You cannot leave them out, because they may work both ways. They may do the taxpayer harm, or they may relieve him of a proper tax he should be subject to. But for 90 per cent of the people they have no interest.

Hon. Mr. HUGESSEN: I quite appreciate that.

Hon. Mr. McDONALD: We may have to go back to this.

The CHAIRMAN: No. The Minister's reservation there is in respect to section 12, in connection with capital employed.

Hon. Mr. McDONALD: But there is some connection.

The CHAIRMAN: No, no connection. The connection of this one is with 27 (1F), which is section 7, I think, page 5 and the top of page 6. That is the connection with this; and the Minister's undertaking which I read this afternoon refers to 27 (1F), which is on page 6. But we could not do that without doing one that occurs on page 19, subsection (3).

Hon. Mr. McDONALD: That is what I mean. We may have to refer back to this.

The CHAIRMAN: Except that the Minister gave his undertaking in the Commons, and I do not know that there is any value in asking him to repeat it here. If we have him here we could do it.

Hon. Mr. ASELTINE: This is one of the sections to which I referred indirectly this afternoon as being very difficult to understand, on account of the way in which the language—the words and sentences—are couched.

The CHAIRMAN: I agree, but it is a problem that does not lend itself to too much simplicity, because you are covering a lot of things in the list of rules you are laying down, and you can hardly find a case to which all the rules apply.

Mr. GAVSIE: Shall I attempt to explain a little?

Hon. Mr. HAIG: No!

The CHAIRMAN: That is subsection (3). Then, subsection (4)?

Mr. GAVSIE: That, again, is a rule of interpretation for determining undistributed income, dealing with offsetting capital gains against capital losses, and making special rules because of the new capital cost system. Where you have a class of assets and you dispose of the whole class, and you still have a balance that you have not written off, under the capital cost allowance regulation that loss can be charged against income in the year.

Hon. Mr. ASELTINE: Not to farmers and fishermen.

Mr. GAVSIE: If they have adopted that system. The purpose of this rule is to provide that the part which has been charged against income is not to be regarded as capital loss for the purpose of arriving at undistributed income, because it has already been taken into account in arriving at the income for the year. Similarly we have a rule working the same way with respect to capital gains. We are not taxing capital gains but we are using capital gains to offset capital losses and then deducting the net capital loss from what would otherwise be undistributed income.

Hon. Mr. HUGESSEN: The whole object is to arrive finally at a figure of undistributed income on hand?

Mr. GAVSIE: That is right.

The CHAIRMAN: On page 20 we have subsection 8.

Mr. GAVSIE: That is a special rule that is applicable to a corporation that at one time was a personal corporation. The purpose of that is to exclude, in determining undistributed income, a deduction for certain dividends that were deemed to be tax free because the corporation was a personal corporation. So that in arriving at undistributed income and deducting the dividends from

undistributed income we do not deduct certain dividends that were tax free because the corporation was a personal corporation. You will notice that this is a long paragraph and it is very difficult to read. It is because it is a special case.

The CHAIRMAN: Are there any other questions, or shall that section carry? The section was agreed to.

On section 25—Mining companies.

Mr. GAVSIE: Paragraph (b) is just to change the Minister of Mines and Resources to the Minister of Mines and Technical Surveys.

Hon. Mr. HAIG: Carried.

Mr. GAVSIE: Subsection 2 is to extend the three-year exemption for mining companies to 1954.

Hon. Mr. HAIG: Carried.

The section was agreed to.

On section 26—Right to file consolidated return.

Mr. GAVSIE: This removes the privilege to file a consolidated return with respect to fiscal periods in 1952 and subsequent taxation years.

The CHAIRMAN: Are there any questions on this section?

Hon. Mr. HAIG: Pass.

The section was agreed to.

The CHAIRMAN: Sections 27, 28 and 29 deal with the matter of appeals.

Mr. GAVSIE: They provide that the notice of appeal shall be filed with the Registrar of the Board or the court in place of the Minister, and the \$15 deposit which was heretofore paid to the Minister is now to be paid to the Registrar. This is the usual court procedure.

Hon. Mr. ASELTINE: I think these sections are acceptable.

Sections 27, 28 and 29 were agreed to.

On section 30—Corporation election.

The CHAIRMAN: I gave an explanation of this today. It is taking a subsidiary-controlled company out of the benefit of section 95 (a).

Hon. Mr. HAIG: That is agreeable.

The CHAIRMAN: And also enlarging the scope of companies which may take the benefit of section 95 (a). Are there questions here?

The section was agreed to.

On section 31—Rents, royalties, etc.

Mr. GAVSIE: This exempts from the 15 per cent withholding tax payments with respect to the use by railway companies of a railway rolling stock as defined by the section of the Railway Act. In other words, you have the Canadian railway making payments to the American railway or the owner of cars—

The CHAIRMAN: A pullman company, for instance?

Mr. GAVSIE: We have in mind more the cars that were under the agreement.

Hon. Mr. HUGESSEN: The Philadelphia plan?

Mr. GAVSIE: Yes, that type of thing, and those payments are supposed to be reimbursements of costs, and therefore it was felt to withhold the 15 per cent would interfere with that agreement and make it more difficult for the Canadian railways to get the cars.

The CHAIRMAN: Perhaps Senator Hugessen can tell us what this Philadelphia agreement is?

Hon. Mr. HUGESSEN: The system by which the railways finance the purchase of equipment.

Mr. GAVSIE: I did not have regard to that. There is an agreement whereby the Canadian railways may use American cars, paying to the American owner of the cars a mileage allowance.

Hon. Mr. HUGESSEN: Oh.

Mr. GAVSIE: And certain other items which represent the cost and depreciation on the car. That is under the American Railway Association Agreement, I think it is called. The railways felt that to impose a 15 per cent withholding tax on that payment, which was meant to be a reimbursement of the cost of the American owner of the car, would jeopardize their position as far as getting these cars.

The section was agreed to.

On section 32—Aggregate taxable value.

Mr. GAVSIE: This is to clear up a technical point in the matter of a gift tax in the case of a personal corporation. As the law now stands it might be interpreted that a personal corporation may give away all its assets without limit and without gift tax. It was never intended that a personal corporation should have that right and that it should be not more than an individual who has a limit of \$4,000 or one-half of his previous year's taxable income, or whichever is the higher. The personal corporation is now limited to \$4,000 a year without gift tax.

Hon. Mr. LAMBERT: That is the same as a person?

Mr. GAVSIE: Yes, but there is an alternative for the individual. Gifts in excess of \$1,000 are aggregated, and then the deduction before applying the gift tax is \$4,000 or one-half your last year's taxable income minus the tax, so that if your last year's taxable income, that is, your gross income after deductions, was \$15,000 and your tax was \$4,000, it would leave \$11,000, and you could give gifts of \$5,500 and not be subject to gift tax.

Hon. Mr. BOUFFARD: Any gifts over \$1,000?

Mr. GAVSIE: Yes.

Hon. Mr. ASELTINE: I thought any taxpayer could give one gift of \$4,000 each year, and several gifts of \$1,000 each?

Mr. GAVSIE: Yes, you do not take into account anything of \$1,000 or under.

Hon. Mr. ASELTINE: What about a \$4,000 gift?

Mr. GAVSIE: Yes, you include that. This is just to deal with the personal corporation end of it. It is to provide that its limit is \$4,000.

Hon. Mr. BOUFFARD: It is made similar to the gift tax on a person in one respect?

Mr. GAVSIE: Yes.

The section was agreed to.

On section 33—Regulations.

Mr. GAVSIE: This provides for the Governor in Council making regulations to require an employer to hand out T-4 slips to his employees. We have had complaints about this in the past year.

Hon. Mr. HAIG: Carried.

Mr. GAVSIE: Subsection 2 is to eliminate in the case of civil servants the necessity of getting an order in council under Debts Due the Crown Act where the civil servant owes taxes. The procedure at the present time is to get an

order in council under the Debts Due the Crown Act, and as the employer is His Majesty and the money is owing to His Majesty, it is a question of the right hand of His Majesty advising the left hand, or vice versa.

The section was agreed to.

On section 34—Garnishment.

Mr. GAVSIE: The only amendment here is the addition of the words "or by a letter served personally," after the words "by registered letter".

Hon. Mr. ASELTINE: There is no exemption of any kind under that section?

Mr. GAVSIE: No, Senator. Instructions are given to try to follow the provincial exemptions. It may be said that there is the odd case where we start off by garnisheeing the whole salary, but we do not continue that very long.

Hon. Mr. ASELTINE: If a man is under a contract to do a certain piece of work and is in arrears for income tax, and the Minister requires the other party to the contract to make payments to the department, how is the contractor going to get enough money to proceed with his work?

Mr. GAVSIE: In such a case he could make an arrangement with the department for liquidation of the account.

The CHAIRMAN: The department would then be in a good bargaining position. The taxpayer would come in promptly and make a deal for instalment payments.

Hon. Mr. BOUFFARD: What would happen if the contractor had already assigned the money due to him?

Mr. GAVSIE: If it is effectively assigned the Crown is out of luck.

Hon. Mr. ASELTINE: What about money that a taxpayer has in a bank?

The CHAIRMAN: The department can garnishee that too.

Hon. Mr. BOUFFARD: Unless it is in the Post Office Savings Bank.

Hon. Mr. ASELTINE: So if I were in arrears for income tax and had some money on deposit in a bank, the Minister could require the bank to pay up my arrears, or at least as much of them as could be paid out of the money that I had on deposit?

The CHAIRMAN: Yes.

Hon. Mr. ASELTINE: That is a very serious matter. In a case of that kind the department might notify various banks and ruin a man's credit.

Mr. GAVSIE: I do not think there are many cases where a bank is notified, Senator.

Hon. Mr. ASELTINE: I know a few farmers who are in arrears for income tax and struggling along, and if any money that they borrowed from a bank and had on deposit were attached in this way they would be in a terrible state.

Mr. GAVSIE: As a matter of fact, we have our collectors go around and see the taxpayer now. So far as I know, that is a new procedure, and it is producing good results.

The section was agreed to.

On section 35—Penalty.

The CHAIRMAN: This simply provides a penalty for failure to comply with the new paragraph (da) in section 33 of the bill, which requires the employer to furnish the employee with a copy of the T-4 form.

The section was agreed to.

On section 36—Information or complaint.

The CHAIRMAN: The amendment here authorizes a member of the Royal Canadian Mounted Police to lay an information or make a complaint with respect to any breach of the Act.

The section was agreed to.

On section 37—"Subsidiary wholly-owned corporation".

Mr. GAVSIE: The only change here is the addition of the word "issued" before the words "share capital".

The section was agreed to.

On section 38—References to Income War Tax Act, references to this Act.

Mr. GAVSIE: This simply says that a reference in any other statute or rule or order or regulation made thereunder to the Income War Tax Act shall be regarded as a reference to this Act. The making of the amendment in this way avoids the necessity of amending all the other statutes in which reference is made to the Income War Tax Act, which has never been repealed. Also, this amendment is deemed to have come into force on June 30, 1948.

The section was agreed to.

On section 39—Newfoundland co-operation.

Mr. GAVSIE: This simply has to do with the definition of "undistributed income" of a Newfoundland company. It excludes the income that any Newfoundland company had prior to March 31, 1949. That was provided for by previous legislation, but because of changes made last year in the wording of section 73 it has become necessary to amend this section.

Hon. Mr. PRATT: This is provided for also by the terms of confederation.

Mr. GAVSIE: Yes, Senator. The section is being amended now simply to tie it in with section 73.

The section was agreed to.

On section 40—Application of certain subsections.

Mr. GAVSIE: This extends the time for the writing off of expenses incurred in the exploration and development of gas or oil wells and mines, to 1954; and in the case of deep-test oil wells to 1952.

The section was agreed to.

The CHAIRMAN: We have now dealt with the whole bill except section 12, which is to stand over until our next meeting, when the Minister will be present.

Hon. Mr. HUGESSEN: The Minister attended a meeting of another committee two or three days ago and discussed this very question. He then told us just what we were told in the house this afternoon, that the department has not yet been able to evolve a satisfactory definition.

The CHAIRMAN: But, as I understand it, there is no undertaking from the Minister that the department will continue its effort to evolve a satisfactory definition. Since this was included in the Budget resolutions, the question is whether we should not ask the Minister if he will give the same undertaking that he did with respect to section 27 (1F).

Hon. Mr. PRATT: It would seem extraordinary if some formula for applying a desirable principle could not be worked out.

Hon. Mr. ASELTIME: Mr. Chairman, I move:

That Rule 100 be suspended in so far as it relates to the printing of these proceedings and that 600 copies be printed in English and 200 copies in French.

The motion was agreed to.

The committee adjourned until after the Senate rises on Tuesday, June 26, 1951.

MINUTES OF EVIDENCE

THE SENATE

OTTAWA, Tuesday, June 26, 1951.

The Standing Committee on Banking and Commerce, to whom was referred Bill 296, an Act to amend the Income Tax Act, met this day at 11.50 a.m.

Hon. Mr. Hayden in the Chair.

The CHAIRMAN: Gentlemen, when we adjourned on Thursday last it was for the purpose of getting some explanation or statement from the Minister of Finance in connection with section 12 of the bill, the section which imposes a defence surtax on corporations. The section omits something which was contained in the budget resolution, namely the reference to the right to earn a minimum of 5 per cent of capital employed before application of defence surtax. The Minister is here.

Hon. Mr. HAIG: Mr. Minister, we read your resolution and, to be candid, we read the statement that you made in the other place—I suppose you call it the House of Commons, but we call it “the other place”.

Hon. Mr. ABBOTT: We turn that about and call the Senate “the other place”.

Hon. Mr. HAIG: You say that you—I presume that means your officials—will try to find a formula for working this thing out; and, as I understand it, although you do not hold out very high hopes you think it is possible that a formula may be found. I agree with what Senator Hayden said when he explained this bill in the Senate, that when you know the definite result that you wish to obtain and you know the facts that you have to deal with, it should be possible sooner or later to find a formula. Now what we are wondering about is this: If a formula is found will you be willing to give the public utility companies—I think they are the ones chiefly affected—the retroactive benefit of the formula?

Hon. Mr. ABBOTT: As I indicated in my budget speech, I am concerned, and I am sure anybody who knows anything about these things is concerned, when the tax on corporation profits gets to a level of—well, you can put it at any figure, but say 50 per cent—because, as I had occasion to say in this Committee before, we all realize that the tax has to be passed on to the people who buy the goods or services of these corporations, and the tax imposes a terrific penalty on efficiency and incentive and so on. And in the case of certain corporations, perhaps notably the public utility corporations, it is difficult to adjust their rates quickly to prevailing costs. They are controlled by various boards and so on, and sometimes it is difficult to get increases which are necessary in order to pay their costs and provide a reasonable return on capital. So I hope and my advisers hope that with respect to that type of corporation and any other type of corporation whose profits for one reason or another might not increase substantially under existing conditions we might be able to establish a rule whereby if their profits did not exceed a certain figure they would not be subject to the defence surtax, and we used the term “capital employed”.

The intention was excellent and we tried very hard indeed to arrive at some definition of “capital employed” which would be fair to all taxpayers. We were not able to succeed, and consequently I came to the conclusion that the only course to follow in the circumstances was to make the defence surtax

applicable to all corporations for this year. You will recall that in my budget speech I indicated that I considered the use of a surcharge rather than a revision of the rates structure, both in the case of corporations and of individuals, as essentially an interim form of additional tax during a period of time when we were trying to see more clearly what our long and medium term obligations were likely to be in connection with the defence program. And I indicated that both in the personal and probably in the corporation field it would have to be looked at pretty carefully another year before we arrived at any permanent or semi-permanent structure. In other words, my point was that this was regarded as a stand-by for the present, to enable us to get necessary revenue this year, and that we would be in a far better position next year to determine what our future requirements would be. I also indicated that I did not believe that except under exceptional circumstances, such as wartime conditions and so on, an excess profits tax is desirable. The administrative difficulties could perhaps be overcome, but a good many other more important difficulties would be involved.

There is no doubt, I suppose, that in a sense the proposed surcharge has some of the elements of an excess profits tax. However, it simply proved impossible to evolve for the purposes of this section any definition of "capital employed" which would be fair to all taxpayers, and it was dropped. I think—in fact, I should say this positively—that the 20 per cent surcharge will stand this year. However, as I stated in the budget speech, the imposition of the surcharge is considered as an interim measure and not necessarily a permanent feature of the tax structure, and that before another budget was brought in we would have to consider the circumstances and endeavour to get a tax structure which was as fair as it could be made.

After that long rigmarole, Senator Haig, in reply to your question I have to say simply that the 20 per cent surcharge will apply to all companies this year.

Hon. Mr. BURCHILL: Mr. Chairman, perhaps most people do not realize what it means for public utility companies—I am thinking of these particularly—to have to apply to commissions for any increase in rates. That is an awful job. You are in the midst of a program to expand your plant so as to be able to give people the services that they are demanding, and you have to take your whole staff off that work and put them on the compiling of all kinds of data. Generally it takes you months to finish with all that, and you no sooner get through than you have to start all over again.

Here is another point. In the provinces of Newfoundland, Prince Edward Island, Nova Scotia, New Brunswick, Quebec, Ontario and British Columbia public utilities—at least, certain classes of public utilities—are being run by private companies. The utilities in other provinces are operated by the provincial governments, and pay no taxes. The other companies have to try to keep the flag flying for private enterprise, protect their stockholders' money and investments, give the same rate as they are giving in other provinces, and at the same time pay the 50 per cent tax. That is the problem.

Hon. Mr. ABBOTT: Quite right. It creates a very difficult problem. As has been indicated elsewhere there could be a very much more effective way of taxing the consumers of electricity, gas or telephone services, by imposing a tax directly on the consumer rather than on the consumer through the company. Members of the committee are aware that at the present time there are constitutional and practical difficulties which have made the arrangement impossible to work out.

Hon. Mr. HAIG: The same problem is going to have to be met in Manitoba, in the electrical field.

Hon. Mr. ABBOTT: It is quite general. That is an incidence of our offers to the provinces for tax rental agreements, whereby we have offered to pay and are paying half of our income tax receipts from certain defined types of utilities.

Hon. Mr. HAIG: In Manitoba negotiations are under way for the purchase by the province of the electrical system. Last year the Winnipeg Electric paid about \$800,000 or \$900,000 in taxes under this levy.

Hon. Mr. ABBOTT: Yes.

Hon. Mr. HAIG: And of course the province, if it takes over the system, will not pay the tax on it.

Hon. Mr. ABBOTT: No.

Hon. Mr. HAIG: That is one argument in favour of the province taking over the electrical system, and I expect that it will go through.

Hon. Mr. ABBOTT: We have the same problem in Quebec.

The CHAIRMAN: L'Anjou, Quebec.

Hon. Mr. ABBOTT: I was thinking of the Montreal Light Heat and Power Company; that was taken over by the Quebec Hydro.

The CHAIRMAN: When you said that the 20 per cent would have to stand for this year, did you mean by that that as and when you have a further look and come up with something that is more permanent, or quasi-permanent, you will go on from there and will not come back and give relief for this period in which the 20 per cent applies?

Hon. Mr. ABBOTT: I do not contemplate that there will be any relief so far as the present year is concerned. The tax is there and it has to be paid. If any change is made in the tax in another budget, that will be something else.

The CHAIRMAN: It is going to create a lot of problems, no doubt about that.

Hon. Mr. ABBOTT: Any tax creates problems.

Hon. Mr. HAIG: Mr. Minister, you have answered our questions fairly and I am not objecting, but you know that we requested your presence to bring home to us the position of the companies that are controlled by a public utility board. In Manitoba we have a public utility board. I admit that we do not pay as much for our telephone service as users in other provinces where the Bell and other companies operate. I am going to have something to say on that subject as it affects another matter this afternoon; they have not been paying taxes to the city. There is quite a serious handicap placed upon the utilities in any province where they are not owned by the province. It really is not fair that in one province the tax is paid, and in another province it is not.

Hon. Mr. ABBOTT: It is a problem that has been with us, as you know, for a good many years. We in the province of Quebec have been very conscious of it, because we are alongside Ontario which, for a great many years, has operated the major parts of its electricity generation and distribution system under public ownership, and our industries have to compete with theirs.

The CHAIRMAN: Are there any further questions?

Hon. Mr. HAIG: I move the bill pass.

Hon. Mr. EULER: Mr. Chairman, unfortunately I was not here last week when the bill was considered. I understand the various clauses were accepted, with the exception of the one under discussion.

The CHAIRMAN: Section 12, yes.

Hon. Mr. EULER: Would I be permitted to revert to clause 11 of the bill?

The CHAIRMAN: Yes.

Hon. Mr. EULER: Was it discussed last week?

The CHAIRMAN: Yes, it was discussed both on the explanation and in committee. It was represented that the section was a relieving section.

Hon. Mr. EULER: I was wondering how far the relief goes. Take for example two men are operating companies—say, they are brothers, or father and son—does that mean that they are dealing at arm's length?

The CHAIRMAN: Not at arm's length.

Hon. Mr. ABBOTT: Under the section as it now stands, if a father owned one company and his son owned another, only one could qualify for the small company tax rates. Under the amended section, as set out here, each could qualify provided the father had no interest in the son's business, and the son could qualify provided he had no interest in the father's business.

Hon. Mr. EULER: But if the father had one share in the son's business he is caught.

Hon. Mr. ABBOTT: Yes; he would have to get rid of the share.

The CHAIRMAN: There is a very simple way out of that position.

Hon. Mr. ABBOTT: Yes. Senator Hayden, who is an expert in these matters, is prepared to advise you for a modest honorarium.

The CHAIRMAN: I am sure there would be competition for the honorarium. But the section is relieving. I think Justice gave an opinion on the working of the present section: If two brothers were operating companies, one at the Atlantic and the other at the Pacific, with no inter-company ownership—

Hon. Mr. EULER: I have in mind two brothers, each of which controls his own company; in fact, they are in a sense in competition, but one brother has one share in the other company.

The CHAIRMAN: He would have to sell it.

Hon. Mr. EULER: Yes, only one could get the benefit. This leads me to another question: Which of the two gets the benefit?

Hon. Mr. ABBOTT: If they cannot agree, then the Minister has to decide. I had a case called to my attention recently where two brothers were in that position. Neither had an interest in the other's business; in fact, they were not speaking and had not spoken for years. It was a tough case to see how they were going to agree.

Hon. Mr. EULER: Say they do agree; can they by agreement decide to let one take the benefit and then divide it with his brother? That would be fair.

Hon. Mr. ABBOTT: It would seem so. But this is going to eliminate that.

Hon. Mr. EULER: Is the law not against doing that?

Hon. Mr. ABBOTT: I do not think there is any objection to their deciding which one should take the benefit. In fact, the law says they must decide.

The CHAIRMAN: The senator means that the brothers would have a private deal on underneath it.

Hon. Mr. EULER: One brother would get the exemption, and then split his saving with the other brother.

Hon. Mr. ABBOTT: I would not care to express an opinion on that. The fellow who received the split might get taxed on it, and we would have another go at it.

Hon. Mr. EULER: I do not think that is very fair.

Hon. Mr. ABBOTT: You appreciate the purpose of this section. In the time since it has been in force we have endeavoured to give the benefit to everyone who is entitled to the low rate of tax, but to prevent abuse.

Hon. Mr. EULER: But when one man has only a nominal interest in the other firm, the fact that both do not get the benefit does not seem quite fair.

The CHAIRMAN: This section will have to be evolved further; I do not think you have heard the last word on it.

Hon. Mr. ABBOTT: I am one of those who does not think that we have the last word on anything.

The CHAIRMAN: Not judging by the amendments that have been made each session.

Hon. Mr. EULER: This is particularly brought home to me in a personal way. I happen to have two sons, and each owns one share in order to qualify as a director in the other company; yet, only one can get the benefit.

Hon. Mr. BEAUBIEN: Are they on speaking terms?

Hon. Mr. EULER: They are not at arm's length.

The CHAIRMAN: Shall I report the bill as amended?

Some Hon. SENATORS: Carried.

The committee adjourned.



